

BENCH-BAR COALITION (BBC)

Quarterly Membership Conference Call: Monday, January 29, 2018; 4:00 p.m. – 5:00 p.m.

Telephone number: (877) 820-7831, Passcode: 785036

Conference Line Opens at 3:55 p.m.

AGENDA

I. Welcome/Introductions (5 minutes)

Hon. Holly J. Fujie and Mr. Pelayo Llamas, BBC Cochairs

II. Update from the Judicial Council (20 minutes)

Mr. Martin Hoshino, Administrative Director; Judicial Council of California; Mr. Cory Jasperson, Director, and Ms. Laura Speed, Supervising Attorney, Judicial Council, Governmental Affairs

- Overview of Governor's proposed FY 2018-2019 State Budget (*attached*)
- Judicial Branch Legislative Priorities for 2018 (*attached*)

III. Bench-Bar Coalition Activities (15 minutes)

BBC Leadership and Members

- Local Court Visits for Legislators in February 2018
- Day in Sacramento and 2018 State of the Judiciary

IV. Legal Community Updates: (15 minutes)

(Individuals whose names are bolded have confirmed their availability to participate in today's call.)

State Bar of California

Mr. Michael G. Colantuono, President, Board of Trustees, and Ms. Leah T. Wilson, Executive Director, State Bar of California

Legal Services and the California Commission on Access to Justice

Hon. Mark A. Juhas, Chair, California Commission on Access to Justice, and Mr. Rodney Fong, Director, Office of Legal Services, State Bar of California

Update from California Judges Association

Hon. Stuart M. Rice, President, California Judges Association

V. Calendar Review and Adjournment (5 minutes)

- **Monday, April 23, 2018:** 4:00–5:00 p.m., BBC Quarterly Membership Conference Call
- **Monday, July 23, 2018:** 4:00–5:00 p.m., BBC Quarterly Membership Conference Call
- **Monday, October 22, 2018:** 4:00–5:00 p.m., BBC Quarterly Membership Conference Call



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

January 10, 2018

Action Requested

For Your Information

To

Judicial Officers, Court Administrators, and
Employees of the California Judicial Branch

Deadline

N/A

From

Martin Hoshino, Administrative Director
Judicial Council

Contact

Zlatko Theodorovic, Budget Services Director
916-263-1397 phone
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Subject

2018–19 Judicial Branch Budget

The Governor's proposed fiscal year (FY) 2018–19 budget released today provides \$4.2 billion for the judicial branch (\$3.8 billion in operating funds and \$375 million in construction). The proposed budget includes \$244.0 million in new General Fund monies. These additional funds would be used to address a variety of branch needs, including trial court workload and implementation of several recommendations made to the Chief Justice in the 2017 report of the Commission on the Future of California's Court System.

The budget proposal for the branch includes \$1.9 billion in General Fund monies, representing 1.5 percent of all General Fund spending. The judicial branch represents 2 percent of total state funds of \$190.3 billion. Approximately 77 percent of the branch's operational budget is allocated to the trial courts.

Governor's Budget Summary

Governor Brown proposed a \$131.7 billion General Fund budget plan for FY 2018–19 that fills the state's Rainy Day Fund to its constitutional target, fully implements the state's K-12 school funding formula two years ahead of schedule, and provides \$4.6 billion for the first year of a 10-year transportation improvement plan. The Governor indicated that the state must continue to plan and save for the next recession. By the end of FY 2018–19, the expansion will have matched the longest in post-war history.

A link to the Governor’s Budget Summary with respect to the judicial branch budget is included with this memorandum.

A breakdown of the proposed FY 2018–2019 budget for all judicial branch entities is provided below:

Judicial Branch Entity	Proposed Total Funding Level (in millions)
Supreme Court	50.7
Courts of Appeal	242.7
Trial Courts	2,938.6
Judicial Council	152.9
Judicial Branch Facility Program	462.0
Habeas Corpus Resource Center	16.6
Subtotal, Operational Budget	\$3,863.5
Offset from Local Property Tax Revenue	-\$48.1
Adjusted Operational Budget	\$3,815.4
Less Non-State Funds ¹	-\$95.2
Adjusted Operational Budget, State Funds	\$3,720.1
New Court Construction Projects	\$375.1
Total Funding²	\$4,190.5

¹ Non-state funds include federal funds and reimbursements.

² Includes General Fund; special, bond, federal, and nongovernmental cost funds; and reimbursements.

Note: Some totals will not be exact due to rounding.

Specifics on the proposals that provide the foundation for budget discussions with the Legislature and the Administration over the next several months are outlined below.

Trial Courts

The Governor’s proposal includes \$225.7 million in new funding from the General Fund to support trial court operations and trial court programs, for a total of \$2.9 billion. Of this amount, \$2.2 billion is for operations. The breakdown is as follows:

Discretionary Funding for Trial Courts: \$75 million for allocation to trial courts statewide based on priorities set by the Judicial Council. While this funding is discretionary, the Administration anticipates the Judicial Council will rely on recommendations made by the Commission on the Future of California’s Court System and report on any anticipated outcomes resulting from this investment.

Trial Court Operations: \$47.8 million to be allocated to trial courts that are below 76.9 percent of their overall need according to the Workload-Based Allocation and Funding Methodology (WAFM). This augmentation is intended to equalize funding among courts by bringing all trial courts up to the statewide average funding level according to updated case weights.

Self-Help in Trial Courts: \$19.1 million from the General Fund to implement recommendations of the Chief Justice's Commission on the Future of California's Court System regarding self-represented litigants. Funds would be used to expand self-help services in trial courts to better prepare the increasing number of self-represented litigants, thereby reducing court workload by decreasing the amount of clerk time and continuances in these cases. This brings the total budget for self-help services to \$30.1 million.

With the proposed increases to court operations and self-help funding, and considering all revenues available to trial courts, the statewide average funding level would exceed 90 percent of the WAFM need.

Pilot Project for Online Traffic Adjudication: \$3.4 million from the General Fund to design, deploy, and maintain software to adjudicate traffic violations online in designated pilot courts consistent with the Chief Justice's direction on a recommendation of the Commission on the Future of California's Court System. This funding will be split between the trial courts and the Judicial Council: \$1.040 million for trial courts and \$2.360 million for consultant services and 7.0 staff support positions at the Judicial Council. All funding would be used solely to support the pilot project.

Revenue backfill: \$89 million in General Fund support to address anticipated revenue shortfalls in the Trial Court Trust Fund due to lower filing fee and criminal assessment revenues. We note that, at this time, there is no proposed change to address additional shortfalls occurring in the current fiscal year (FY 2017–18). Discussions with the Administration to address revenue shortfalls will continue as part of the spring budget process.

In addition, there are anticipated revenue declines in the State Trial Court Improvement and Modernization Fund, the State Court Facilities Construction Fund, and the Immediate and Critical Needs Account for court facilities. The impact of these revenue declines will need to be assessed as we evaluate proposed FY 2018–19 expenditures.

Language access: \$4.0 million (one-time) from the General Fund to continue the expansion of interpreter services for civil matters in all courts in line with the Judicial Council's *Strategic Plan for Language Access in the California Courts*.

Court Appointed Special Advocate Program (CASA): \$500,000 from the General Fund to support the CASA grant program. This program provides grants to trained volunteers assigned

by a juvenile court judge to youth in foster care. This funding would be used to leverage outside investments to directly serve approximately 2,200 additional foster youth.

California Courts Protective Order Registry (CCPOR): \$200,000 from the General Fund to support the expansion of the registry program to the remaining seven trial courts that do not currently utilize the registry. The registry serves as a central repository of restraining and protective orders, which safeguards victims of violence and law enforcement officers in the field. This funding will support 1.0 Judicial Council position to complete deployment of and provide ongoing support for the CCPOR program in all trial courts.

Judicial compensation adjustments: \$15.9 million for previously approved judicial officer salary and benefit cost increases. Judicial salaries are set by operation of statute (Gov. Code § 68200 et seq.), and increases are tied to state employee salaries. The increase reflects the average salary increase for the current fiscal year for California state employees as explained in Government Code section 68203(a).

Employee costs: \$25.8 million for trial court employee retirement and health benefit costs.

Extension of Sunset for Various Fees: Trailer bill language will be introduced to extend the sunset date of various fees that support trial court base allocations by five years. Currently due to expire June 30, 2018, these fees have generated revenue averaging \$36.6 million over the last six fiscal years. Absent this extension, there would be a reduced allocation to trial courts impacting court operations.

Judicial Entities at the State Level

The Governor's proposal includes \$18.3 million to fund the following for state level entities:

Employee costs: Additional General Fund monies to support retirement and health benefit cost adjustments for employees of the Supreme Court (\$1.8 million), Courts of Appeal (\$8.7 million), Judicial Council (\$5.4 million), and Habeas Corpus Resource Center (\$0.8 million).

Rent costs: \$1.0 million for rent increases in buildings occupied by the Supreme Court, Courts of Appeal, and the Habeas Corpus Resource Center.

Judicial Council Collective Bargaining (AB 83): \$610,000 in FY 2018–19, \$554,000 in FY 2019–20, and \$369,000 in FY 2020–21 from the General Fund for costs associated with increased workload as a result of the enactment of the Judicial Council Employer-Employee Relations Act.

Judicial Branch Construction Program

The Governor's proposal for the Judicial Branch Construction program includes \$32.2 million from the Immediate and Critical Needs Account to complete the design of three courthouse projects in Riverside/Mid-County, Sonoma, and Stanislaus Counties. The proposal also commits to completing construction for the next ten courthouse projects ready to proceed to construction from lease revenue bonds in the next two years, namely, projects in Imperial, Riverside/Indio, Shasta, Siskiyou, and Tuolumne Counties in FY 2018–19 and projects in Glenn, Riverside/Mid-County, Sacramento, Sonoma, and Stanislaus Counties in FY 2019–20.

The FY 2018–19 Governor's Budget includes funding for the following projects:

1	Imperial County: New El Centro Courthouse	\$41,944,000	Construction
2	Riverside County: New Indio Juvenile and Family Courthouse	\$45,327,000	Construction
3	Riverside County: New Mid-County Civil Courthouse	\$5,666,000	Working Drawings
4	Shasta County: New Redding Courthouse	\$138,763,000	Construction
5	Siskiyou County: New Yreka Courthouse	\$59,203,000	Construction
6	Stanislaus County: New Modesto Courthouse	\$15,252,000	Working Drawings
7	Sonoma County (Reappropriation): New Santa Rosa Criminal Courthouse	\$11,252,000	Working Drawings
8	Tuolumne County: New Sonora Courthouse	\$57,722,000	Construction
Total		\$375,129,000	

Significant State Budget Proposals

Rainy Day Fund: Proposition 2, approved by California voters in 2014, established a constitutional goal of reserving ten percent of tax revenues in a Rainy Day Fund. By the end of the current (2017–18) fiscal year, the Fund will have a total balance of \$8.4 billion, or 65 percent of the constitutional target. The budget proposes a \$3.5 billion supplemental payment in addition to the constitutionally required transfer to the Rainy Day Fund for FY 2018–19. The two payments would bring the total fund to \$13.5 billion.

K-12 Education: In 2013, the state enacted the K-12 Local Control Funding Formula to increase support for the neediest students and restore local district flexibility over how money is spent in schools. With \$3 billion in new proposed funding for the formula in FY 2018–19, the budget would achieve full implementation of the formula two years ahead of schedule.

Higher Education: The budget proposes the creation of the first wholly online community college in California to provide an affordable pathway to higher wages through credentials for those who do not currently access the California community college system. The budget also proposes a funding increase of four percent for community colleges, and increases state support for the University of California and the California State University by three percent. The budget reflects flat tuition.

Health Care: With uncertainty regarding funding at the federal level, the budget provides monies to increase health care coverage to low-income Californians under the federal Affordable Care Act.

Transportation Infrastructure: The budget reflects the first full year of funding under the Road Repair and Accountability Act of 2017 (Senate Bill 1), with \$4.6 billion in new funding for state and local transportation infrastructure.

Cap-and-Trade Program: In July 2017, the Governor signed legislation to extend California’s landmark cap-and-trade program through 2030 to reduce greenhouse gas emissions. \$1.25 billion in cap-and-trade funds will be available for appropriation in FY 2018–19.

Next Steps on Judicial Branch Budget

The Governor’s budget as proposed for the judicial branch will make possible continued progress in increasing access to justice for court users across California.

This proposal for the FY 2018–19 that begins on July 1, 2018, sets the stage for the next phase of the ongoing budget development cycle for the state. This will include further discussions with the Administration, legislative hearings, meetings with legislators and their staff, updated state revenue numbers in April, a May Revision to the Governor’s proposed budget, and then an intensive period of legislative activity to pass a balanced budget by the June 15 constitutional deadline.

As part of the Governor’s Budget Summary statement, the Administration indicates the following with respect to next steps in the spring budget process:

“...while the Budget focuses resources on the trial courts and begins to address some of the recommendations made by the Commission [on the Future of California’s Court

System], the Administration will continue working with the Judicial Council on other recommendations that may improve and modernize services provided by the Judicial Council and operations of the appellate and Supreme courts, such as the creation of a Center for Self-Help Resources to assist trial courts in their role as self-help providers, and case and document management systems to support digital technology in all courts.”

Over the next several months, the Chief Justice and the Judicial Council, with the support of trial and appellate court leaders, the bar, and other justice system stakeholders, will continue to advocate with the Governor and the Legislature on judicial branch policy and funding issues critical to maintaining court services for the public and advancing solutions to improve the delivery of equal and timely access to justice for all Californians.

The Governor’s proposed FY 2018–19 budget may be reviewed at: www.ebudget.ca.gov.



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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

Overview of Judicial Branch Legislative Priorities for 2018

The Judicial Council has adopted the following legislative priorities for 2018. These priorities embody the Chief Justice's Access 3D framework for increased access to the courts.

1. Advocate for continued investment in the judicial branch, including a method for stable and reliable funding for courts to address annual cost increases in baseline operations and plan for the future; and for sufficient additional resources to (1) improve physical access to the courts by keeping courts open, (2) to expand access by increasing the ability of court users to conduct branch business online, and (3) to restore programs and services, that were reduced over the past few years. This priority also includes seeking the extension of sunset dates on increased fees implemented in the fiscal year (FY) 2012–2013 budget, as follows:
 - \$40 increase to first paper filing fees for unlimited civil cases, where the amount in dispute is more than \$25,000 (Gov. Code, § 70602.6)
 - \$40 increase to various probate and family law fees (Gov. Code, § 70602.6)
 - \$20 increase to various motion fees (Gov. Code, §§ 70617, 70657, 70677)
 - \$450 increase to the complex case fee (Gov. Code, § 70616)
 - \$40 probate fee enacted (Gov. Code, § 70662)
2. Increase the number of judgeships and judicial officers in superior courts with the greatest need.
 - Seek funding for 12 of the 50 authorized but unfunded judgeships, to be allocated to the courts with the greatest need based on the most recently approved Judicial Needs Assessment.
 - Seek funding for two additional justices in Division Two of the Fourth Appellate District (Inyo, Riverside, and San Bernardino Counties), one in FY 2017–18 and

the second in FY 2018–19.

- Advocate for legislative ratification of the Judicial Council’s authority to convert 16 subordinate judicial officer (SJO) positions to judgeships in eligible courts, and sponsor legislation for legislative ratification of the council’s authority to convert up to 10 additional SJO positions to judgeships, in eligible courts, if the conversion will result in an additional judge sitting in a family or juvenile law assignment that was previously presided over by an SJO.
3. Seek sufficient funding for courthouse construction projects authorized by Senate Bill 1407 (Perata; Stats. 2008, ch. 311).
 4. Seek legislative authorization for the disposition of the West Los Angeles courthouse as previously authorized by the Judicial Council and any remaining properties subsequently approved by the council in 2018 in a fair market value transaction, with the proceeds to be directed to the Immediate Critical Needs Account of the State Court Facilities Construction Fund established by Senate Bill 1407 (Perata; Stats. 2008, ch. 311) or any other Judicial Council facilities fund authorized by the Legislature.
 5. Continue to sponsor or support legislation to improve judicial branch operational efficiencies, including cost savings and cost recovery measures. Advocate in particular to eliminate the requirement that courts destroy infraction records relating to marijuana possession or transport.
 6. Advocate for a three-branch solution to ensure the fairness and efficiency of California’s fines, fees, penalties, and assessments structure, ensuring that any solutions include sufficient revenue backfill for the branch.
 7. Advocate for legislation to implement the recommendations of the Commission on the Future of California’s Court System as recommended by the Judicial Council and its advisory bodies.
 - ***Civil adjudication of minor traffic infractions.*** The Chief Justice appointed the Futures Traffic Working Group to collaborate with the Judicial Council’s Traffic Advisory Committee, the Civil and Small Claims Advisory Committee, the Advisory Committee on Providing Access and Fairness, and the Criminal Law Advisory Committee, to develop for Judicial Council consideration a proposal to implement and evaluate a civil model for adjudication of minor vehicle infractions.
 - ***Revision of civil case tiers and streamlined civil procedures.*** The Judicial Council’s Civil and Small Claims Advisory Committee is directed to assess and make recommendations to the Judicial Council on advancing a legislative

proposal for increasing the maximum jurisdictional dollar amounts for limited civil cases to \$50,000, creating a new intermediate civil case track with a maximum jurisdictional dollar amount of \$250,000, and streamlining methods for litigating and managing all types of civil cases.

- ***Assistance for self-represented litigants.*** The Judicial Council's Advisory Committee on Providing Access and Fairness is directed to develop a proposal for Judicial Council consideration of the structure, content, and resource requirements for an education program to aid the growing number of self-represented litigants (SRLs) in small claims and civil cases where SRLs are most common.
- ***Expansion of technology in the courts.*** The Judicial Council's Information Technology Advisory Committee is directed to consider, for presentation to the Judicial Council, the feasibility of and resource requirements for developing and implementing a pilot project to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings. Further, the committee is directed to explore available technologies and make recommendations to the Judicial Council on the potential for a pilot project using voice-to-text language interpretation services at court filing and service counters and in self-help centers. Finally, the committee is directed to explore and make recommendations to the council on the potential for a pilot project using intelligent chat technology to provide information and self-help services.

8. Advocate for legislation to implement the recommendations of the Pretrial Detention Reform Work Group.

The Judicial Council will also be sponsoring the following legislative proposals:

Juvenile Case Files: Access for Purpose of Appellate Proceedings

Clarify that people who are entitled to seek review of certain orders in juvenile proceedings or who are respondents in such appellate proceedings may, for purposes of those proceedings, access and copy those records to which they were previously given access by the juvenile court, and clarify that either the juvenile court or the Court of Appeal may permit such individuals to access and copy additional records in the juvenile case file.

Clarify Procedure for Issuing a Temporary Gun Violence Restraining Order

Amend statutes setting forth the procedure for issuing a temporary emergency gun violence restraining order, specifically Penal Code sections 18140 and 18145. The amendments would replace the procedural requirement for obtaining an order orally with requirements set forth directly within the gun violence prevention statutes, which would parallel the requirements for emergency orders obtained in domestic violence cases and clarify the procedures for law enforcement officers and the court to follow.

Authorize Fees for Electronic Filing and Service in the Appellate Courts

Amend the Government Code sections relating to appellate court fees to (1) clarify that an appellate court or its electronic filing service provider may charge a reasonable fee for e-filing services; (2) allow an appellate court in a contract with an e-filing service provider to contract to receive a portion of the fees collected by that provider; and (3) authorize the appellate courts to charge a fee to recover costs incurred for providing e-filing. People entitled to fee waivers would not be subject to any of the fees provided for in the legislation.

Electronic Arrest and Search Warrants

Make the process for electronically issuing arrest and search warrants more efficient by allowing magistrates to issue arrest and search warrants electronically without communicating with the officer telephonically by eliminating the requirement of an oral statement under oath.

Uniform Hourly Rate for Community Service in Lieu of Infraction Fine

Amend the Penal Code to provide a uniform rate throughout the state for converting infraction fines into community service hours. Specifically, propose a uniform hourly rate of double the California state minimum wage for community service performed in lieu of paying infraction fines.

Modernization of Civil Statutes

Modernize the statutes by (1) authorizing the courts to electronically serve a written demand for payment on the drawer of a bad check, (2) authorizing electronic service of notices of intention to move for a new trial or vacate judgment, and (3) amending certain deadlines tied to dates of “mailing” to be tied instead to dates of “service.”

Juvenile Competency

Amend Welfare and Institutions Code section 709 to clarify the legal process and procedures in proceedings that determine the legal competency of juveniles, including the following: who may express doubt regarding competency in minors; who has the burden of establishing incompetency; what is the role of the forensic expert in assessment and reporting on competency in minors; what is the process for determining competency in minors; what is the process for determining whether competency has been remediated; what is the process for ensuring that proceedings are not unduly delayed; and what is the process for ensuring due process and confidentiality protections for minors during the proceedings.

Interpreters in Small Claims Actions

Amend Government Code section 68560.5(a) and Code of Civil Procedure section 116.550 to complete the expansion of language access services, including the provision of court interpreters in small claims actions when court resources allow. Specifically, delete an exception stating that interpreters are not required in small claims proceedings, and authorize courts to appoint certified and registered interpreters in small claims proceedings. The latter amendment also provides judicial officers with discretion to appoint a temporary interpreter if an attempt to secure a certified/registered or provisionally qualified interpreter is not successful.